

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL BUSINESS MACHINES
CORPORATION,

Plaintiff,

v.

JEFF S. SMITH,

Defendant.

17 Civ. 5808-CS-PED

**DECLARATION OF
VIRGINIA M. ROMETTY**

Virginia M. Rometty declares pursuant to 28 U.S.C. § 1746:

1. I am the Chairman, President, and Chief Executive Officer of International Business Machines Corporation (“IBM”), which employs approximately 380,000 people worldwide. I am fully familiar with the facts set forth in this affidavit, which I offer in support of IBM’s Motion to Quash the subpoena served on me and for a Protective Order precluding my testimony.

2. I am aware that IBM has moved for a temporary restraining order and a preliminary injunction related to former IBM Chief Information Officer Jeff Smith’s proposed employment at Amazon Web Services (“AWS”).

3. I was not Mr. Smith’s direct supervisor.

4. I do not have unique knowledge—that is, knowledge that only I possess or knowledge that is superior to others at IBM—regarding Mr. Smith’s responsibilities when he was employed at IBM, Mr. Smith’s knowledge of IBM confidential information and trade secrets, or Mr. Smith’s recruitment to AWS and the responsibilities involved in his proposed employment there.

5. Mr. Smith reported to and was supervised by James Kavanaugh. With respect to his responsibilities as the Chief Information Officer of IBM, and his exposure to IBM confidential information in that position, Mr. Kavanaugh has more direct and in-depth knowledge than I do. Mr. Kavanaugh is a Senior Vice President of IBM and I understand that he is being deposed in this case.

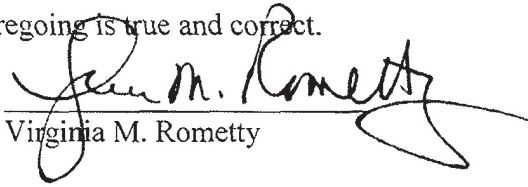
6. With respect to Mr. Smith's service on the IBM Technology Team, and his exposure to IBM confidential information in that role, the Head of the Technology Team, Arvind Krishna, has more direct and in-depth knowledge than I do. Mr. Krishna is a Senior Vice President of IBM and I understand that he is being deposed in this case.

7. With respect to Mr. Smith's knowledge of Project Genesis, IBM's next-generation Cloud infrastructure, the manager of that product development program, John Considine, has more knowledge than I do. I understand that Mr. Considine is being deposed in this case.

8. The decision by IBM to seek the enforcement of Mr. Smith's noncompetition agreement through this lawsuit was based on the legal analysis and legal advice provided by attorneys for IBM, including the corporation's General Counsel. Describing and explaining the reasons for that decision would require the disclosure of communications and discussions with counsel, which I understand are protected by the attorney-client privilege.

9. I will be out of the country on both August 21, 2017 and August 24, 2017.

I declare under penalty of perjury that the foregoing is true and correct.


Virginia M. Rometty

Executed on August 18, 2017